THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.8120 of 2006

Dated:21st April, 2006

Between:

Md.Sabir Ali.

…..PETITIONER

AND

The Divisional Manager,

A.P.S.R.T.C, Nalgonda Division,

Nalgonda District and another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.8120 of 2006

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ORDER:

This writ petition is filed assailing the proceedings of the 1st respondent-Depot Manager, Narketpally, in proceedings No.02/2 (1)/92-NKP, dated 6-5-1992 by which the petitioner who is a Conductor was imposed a major punishment of deferment of annual increment for a period of two years with cumulative effect, without conducting any enquiry.

The operative portion of the impugned order of the respondent reads thus:

> *"I, therefore, hereby order that your annual increment which next falls due to deferred for a period of two yers with cumulative effect"*

It is the case of the petitioner that he is working as Driver at respondent-Depot and the 1st respondent issued a charge-sheet dated 18-2-1992 on the allegation that the petitioner has caused fatal accident and failed to take precautionary measure to avert the accident on 18-1-1992 which amounts to serious misconduct, for which the petitioner submitted explanation on 25-4-1992. It is the further case of the petitioner that proceedings of the 1st respondent-Depot Manager, Narketpally, in proceedings No.02/2 (1)/92-NKP, dated 6-5-1992 imposing punishment of deferment of annual increment for a period of two years with cumulative effect is a major punishment and cannot be imposed without conducting departmental enquiry and such imposition is contrary to law and contrary to the Judgment of the Supreme court in ***Kulwanth Singh Gill v. State of Punjab ,*** and due to such major punishment the petitioner is facing much financial problems as he is drawing less salary.

Heard the learned counsel for the petitioner and perused the impugned order as well as the Judgment of this Court in W.P.No.23114 of 2005, dated 27-10-2005.

Admittedly, the respondent without conducting departmental enquiry imposed the penalty of stoppage of annual increment for a period of one year, with cumulative effect on the basis of the charges leveled against the petitioner which is a major penalty as is held by this Court in a similar matter in W.P.No.23114 of 2005, dated 27-10-2005 following the Judgment of the Supreme Court in ***Kulwanth Singh Gill v. State of Punjab.*** The order of the Single Judge in a similar matter was confirmed by the Division Bench of this Court in W.A.No.340 of 2006 by order dated 10-4-2006. The operative portion of the judgment in W.P.No.23114 of 2005, dated 27-10-2005 reads thus:

> *"In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the matter, this court is of the view that the impugned order can be treated, as the one for stoppage of annual increment, without cumulative effect.*

Hence, the writ petition is partly allowed, directing that the order dated 16-11-1993, passed by the respondent, shall be treated as the one for stoppage of annual increment, for a period of six months, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs."

In the above view of the matter, this writ petition is disposed of in terms of the judgment of this Court in W.P.No.23114 of 2005, dated 27-10-2005 directing the respondents as under.

The respondent is directed to treat the impugned order in proceedings No.02/2 (1)/92-NKP, dated 6-5-1992 as the one for stoppage of annual increment, for a period of two years without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. No costs.

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(N.V. RAMANA, J.)

Date:21st April, 2006.

GRK